

**ATTACHMENT 5**

**Civil Docket**

71st Judicial District

Case No. 08-0023  
HARRISON CountyFebruary 4th, 2008  
9:22am

CLARA PATTON, IND. AND ON BEHALF OF  
 THE ESTATE OF LAURA PATTON, DECEASED,  
 KIMBERLY GRAHAM, ET AL vs. INVACARE  
 CORPORATION, PRAXAIR HEALTHCARE  
 SERVICES, INC., KIDDE FRYNETICS, INC.,  
 ET AL

Filed : 01/07/2008  
 Status: Filed  
 Type: OTHER CIVIL CASES

Judge  
 BONNIE L. HAGAN

Court Reporter  
 Lynn Skinner

Date	Events & Orders of the Court	Volume	Page
01/07/08	PLAINTIFF'S ORIGINAL PETITION PLNTFS ORIG PTN		
01/08/08	CITATION BY CERTIFIED MAIL Issued -Defendant. SPIRIT HOMES INC.		
01/10/08	CITATION BY CERTIFIED MAIL Served - KIDDE FRYNETICS, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - SPIRIT HOMES, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - CAVALIER ENTERPRISES, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - CAVALIER HOME BUILDERS, L.L.C. - Answer due: 02/04/08		
01/11/08	CITATION BY CERTIFIED MAIL CAVALIER HOME BUILDERS SERVED 01/10/08		
01/11/08	PLEA IN INTERVENTION R. GRAHAM FILING INTERVENTION FOR DESTINY GRAHAM (DECEASED)		
01/11/08	CITATION BY CERTIFIED MAIL Served - GRIFFIN, PATRICIA - Answer due: 02/04/08		
01/14/08	CITATION BY CERTIFIED MAIL Served - PRAXAIR HEALTHCARE SERVICES, INCORPORATED		
01/15/08	CITATION BY CERTIFIED MAIL PATRICIA GRIFFIN SERVED 01/11/08		
01/15/08	CITATION BY CERTIFIED MAIL CAVALIER ENTERPRISERS, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL SPIRIT HOMES, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL KIDDE FRYNETICS, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL CAVALIER HOME BUILDERS SERVED 01/10/08		
01/16/08	Jury Trial Requested		
01/17/08	CITATION BY CERTIFIED MAIL		

**Civil Docket**

71st Judicial District

Case No. 08-0023  
HARRISON CountyFebruary 4th, 2008  
9:22am

Date	Volume	Page
<b>Events &amp; Orders of the Court (cont.)</b>		
01/18/08		
PRAXAIR HEALTHCARE SERVICES SERVED 01/14/08		
OTHER		
01/18/08		
RE: RECEIPT OF CERTIFICATE OF SERVICE		
LETTER		
01/18/08		
RE: CT CORP NOT REGISTERED AGENT		
LETTER		
01/18/08		
CT CORP NOT AGENT FOR SPIRIT HOMES		
LETTER		
01/23/08		
TO SIR/MADAM FROM MARIE-DOMINIQUE SHEETER CT CORP. SYSTEM IS		
NOT REGISTERED AGENT FOR CAVALIER ENTERPRISES, INC.		
01/25/08		
LETTER		
CT CORP RE KIDDE FRYNETICS NOT IN RECORDS		
01/25/08		
LETTER		
CT CORP NOT AGENT FOR SPIRIT HOMES		
01/28/08		
ORIGINAL ANSWER		
DFNDT INVACARE CORPORATION'S ORIG ANS TO PLNTFS ORIG PTN		
(MACDONALD DEVIN - DAVID M. MACDONALD)		
01/30/08		
RESPONDENT'S ORIGINAL ANSWER		
DEF PRAXAIR HEALTHCARE FILING ANSWER		
01/30/08		
Answer Filed -Defendant, PRAXAIR HEALTHCARE SERVICES,		
INCORPORATED		
01/30/08		
CITATION BY CERTIFIED MAIL - Returned Served -Defendant, SPIRIT		
HOMES, INC.		

A TRUE COPY  
 of the Original hereof, I certify  
*Sherry Griffis*  
 District Court Clerk  
 Harrison County, Texas

By \_\_\_\_\_

*B. Johnson*  
Deputy Clerk

**CAUSE NO.**

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES§  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXI FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR§  
AND DEBBIE ROCKWELL, IND. AND ON§  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

**IN THE DISTRICT COURT OF**

~~SHERRY SWEET~~

G. H. D. 10

BY:  
DEPUTY

## HARRISON COUNTY, TEXAS

VS

INVACARE CORPORATION, PRAXAIR  
HEALTHCARE SERVICES, INC., KIDDE  
FYRNETICS, INC., SPIRIT HOMES, INC.,  
SPIRIT HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS, L.L.C.  
F/K/ACAVALIER HOMES OF  
ALABAMA, INC. AND  
PATRICIA B. GRIFFIN D/B/A  
DISCOUNT HOMES, INC.

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

FRIEND FOR JOHN "C J." BROWN, A MINOR, JAMES DAVISON, JR. AND DEBBIE ROCKWELL, IND AND ON BEHALF OF THE ESTATE OF TESHAREME DAVISON, DECEASED, complaining of INVACARE CORPORATION, PRAXAIR HEALTHCARE SERVICES, INC, KIDDE FRYNETICS, INC , SPIRIT HOMES, INC , SPIRIT HOMES, INC , A DIVISION OF CAVALIER ENTERPRISES, INC , CAVALIER ENTERPRISES, INC , CAVALIER HOME BUILDERS, L L C F/K/A CAVALIER HOMES OF ALABAMA, INC , AND PATRICIA B GRIFFIN D/B/A DISCOUNT HOMES, INC , and for cause of action would respectfully show the following:

*1 0 Discovery Control Level*

1 1 Discovery is intended to be conducted under Level 3, TRCP 190.4. It is anticipated that the parties will submit a discovery control plan in the form of an agreed order. Should the parties be unable to agree, plaintiffs move the court to adopt a discovery control plan tailored to the circumstances of this case.

*2 0 Plaintiffs*

2 1 The plaintiffs to this suit and their respective capacities and residences are as follows:

2 2 Clara Patton, Individually and on behalf of the Estate of Laura Patton, deceased, who resides in Harrison County, Texas;

2 3 Kimberly Graham, Individually and on behalf of the Estates of Destiny Graham, deceased, and Da'Marcus King, deceased, who resides in Harrison County, Texas;

2 4 Laumarko King, Individually and on behalf of the Estate of Da'Marcus King, deceased, who resides in Morris County, Texas;

2 5 Deshawn Brown and Cassandra Brown, Individually, and on behalf of the Estate of Nathaniel Brown, deceased, and as Next Friends for John "C J." Brown, a Minor;

who reside in Gregg County, Texas;

2 6 James Davison, Jr and Debbie Rockwell, Individually and on behalf of the Estate of Teshareme Davison, deceased Debbie Rockwell is a resident of Gregg County, Texas and James Davison is a resident of the State of Florida.

3 0 ***Defendants***

3 1 The defendants in this suit and their residences are as follows:

3 2 Invacare Corporation, a foreign corporation, organized and existing pursuant to the laws of a state other than Texas and whose principle place of business is a state other than the state of Texas. This corporation may be served by certified mail, return receipt requested to its attorney: David Macdonald, Macdonald, Devin, 3800 Renaissance Tower, 1201 Elm St , Dallas, Texas, 75270.

3 3 Praxair Healthcare Services, Incorporated, a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: Corporation Service Company d/b/a CSC-Lawyers Inc , 701 Brazos Street, Suite 1050, Austin, Texas, 78701.

3 4 Kidde Fyrnetics, Inc , A UIC Fire & Security Company, a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201

3.5

Spirit Homes, Inc , a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant, who has engaged in business in Texas, does not have its registered agent on file The Texas Secretary of State may serve the Defendant by serving: The Corporation Company, 425 West Capital Avenue, Suite 1700, Little Rock, Arkansas 72201

3.6

Spirit Homes, Inc , a division of Cavalier Enterprises, Inc., a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N St Paul Street, Dallas, Texas

3.7

Cavalier Enterprises, Inc , a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N. St. Paul Street, Dallas, Texas

3.8

Cavalier Home Builders, L L C f/k/a Cavalier Homes of Alabama, Inc , a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 St. Paul Street, Dallas, Texas

75201.

3 9 Patricia Griffin d/b/a Discount Homes, an individual who engaged in business in Texas, the lawsuit arises out of Defendants' business in Texas. Service of said Defendant may be had by serving Defendant by certified mail, return receipt requested at her mailing address: P.O Box 114, Magnolia, Texas 77353-0114

4 0 **Venue**

4 1 Venue of this matter is proper in Harrison County, Texas, pursuant to §15 002(a)(1) in that all or a substantial part of the events or omissions giving rise to the claims set forth herein occurred in Harrison County, Texas.

5 0 **Facts**

5 1 The facts giving rise to this suit are not in dispute. On January 9, 2006, a fire broke out and consumed a mobile home located on Farm to Market Road 450 North, south of Ore City and north of Harleton. The mobile home, a 1999 Spirit Saratoga, was owned by Clara Patton and Kimberly Graham. At the time of the fire, the mobile home was occupied by Clara Patton, her mother, Laura Patton, Clara Patton's daughter, Kimberly Graham and her two (2) children, Destiny Graham and Da'Marcus King, and their friends, Nathaniel Brown, John "C J" Brown and Teshareme Davison.

5 2 The fire caused the deaths of Laura Patton, age 75, Destiny Graham, age 11, Da'Marcus King, age 4, Nathaniel Brown, age 5, Teshareme Davison, age 12

5 3 Injured in the fire were Clara Patton, Kimberly Graham and John "C J" Brown

5 4 Located in the mobile home on the night of the fire was an oxygen concentrator designed, manufactured, and marketed by Invacare Corporation. This machine serves

to filter nitrogen from ambient room air and provide nearly pure oxygen to persons who are oxygen dependent

5 6 Praxaire Healthcare Services, Inc., placed the oxygen concentrator in the mobile home and agreed to provide instruction in the safe use thereof and further agreed to provide all necessary inspections and maintenance of the concentrator to insure that it remained in good working order

5 7 Kidde Fyrnetics, Inc., A UTC Fire & Security Company, designed, manufactured and marketed the two ionization- type smoke detectors in the mobile home

5 8 Spirit Homes, Inc., Spirit Homes, Inc , a division of Cavalier Enterprises, Inc , Cavalier Enterprises, Inc , Cavalier Enterprises of Alabama, Inc and/or Discount Homes, Inc , designed, manufactured and marketed the 1999 Spirit Saratoga mobile home in which the fire occurred

6 0 *Plaintiffs' Allegations and Theories of Recovery*

6 1 Plaintiffs allege that a defect existed in the concentrator which caused it to overheat and which rendered it unreasonably dangerous as designed, manufactured and marketed and which was the producing cause of the deaths of those who perished in the fire and the injuries to those who survived.

6 2 Plaintiffs allege that overheating occurred, in part, due to the failure of Praxair Healthcare Services, Incorporated, to maintain the concentrator. Additionally, plaintiffs allege that Praxair Healthcare Services failed to instruct Laura Patton in the safe use of the concentrator and to warn of the dangers inherent in the use of the concentrator. These acts of negligence were a proximate cause of the deaths of the those who perished in the fire and injuries to those who survived.

6 3 Plaintiffs allege that the design, manufacture and marketing of the smoke alarms by Kidde Fyrenetics, Inc , A UTC Fire & Security Company, was defective such that they failed to provide a timely warning to the occupants of the mobile home The delay in discovering the fire allowed smoke to fill the home such that when the occupants did finally discover the fire, the degree of smoke then existing caused great confusion, difficulty breathing and prevented those who perished from escaping, ultimately leading to their deaths. Thus, the defective smoke detector was a producing cause of the injuries and deaths herein.

6 5 Pleading further, plaintiffs allege that a defect in the electrical wiring of the mobile home existed which was a producing cause of the fire and the deaths of those who perished and the injuries to those who survived Defendants negligently wired the smoke detectors located within the mobile home and failed to include adequate smoke detectors Such negligence was a proximate cause of the basis of this suit This defect in the wiring rendered it unreasonably dangerous as designed, manufactured and marketed The wiring was designed, manufactured and marketed by Spirit Homes, Inc., Spirit Homes, Inc., a division of Cavalier Enterprises, Inc , Cavalier Enterprises, Inc., Cavalier Enterprises of Alabama, Inc and/or Discount Homes

7 0 *Plaintiffs' Damages*

7 1 *Clara Patton*

7 2 Clara Patton hereby sues the defendants at common law for all damages to which she is entitled for her injuries. Additionally, as the sole surviving daughter of Laura Patton, deceased, and sole heir, she sues the defendants for the wrongful death of her

mother for all damages to which she is entitled pursuant to TCPRC 71.001 et seq.

In addition, Clara Patton sues on behalf of the estate of Laura Patton, deceased for all damages to which it is entitled. In this regard, no administration was necessary on the estate of Laura Patton, deceased.

**7.2 *Kimberly Graham***

7.3 Kimberly Graham sues the defendants at common law for all damages to which she is entitled for her injuries. Additionally, Kimberly Graham is a surviving parent of her two children, Destiny Graham and Da'Marcus King, and sues the defendants for the wrongful death of her two children for all damages to which she is entitled pursuant to TCPRC 71.001, et seq. In addition, Kimberly Graham sues on behalf of the estates of Destiny Graham and Da'Marcus King, deceased, for all damages to which they are entitled. In this regard, no administration was necessary on the estates of Destiny Graham and Da'Marcus King.

**7.4 *Laumarko King***

Laumarko King is a surviving parent of Da'Marcus King, deceased, and sues the defendants for the wrongful death of his son for all damages to which he is entitled pursuant to TCPRC 71.001 et seq. In addition, Laumarko King sues on behalf of the estate of Da'Marcus King, deceased for all damages to which it is entitled. In this regard, no administration was necessary on the estate of Da'Marcus King.

**7.5 *Deshawn Brown and Cassandra Brown***

Deshawn Brown and Cassandra Brown are the surviving parents of Nathaniel Brown, deceased, and John "C J." Brown, a Minor. They hereby sue the defendants for all damages to which they are entitled pursuant to TCPRC 71.001 et seq. for the

wrongful death of their son and at common law for all damages to which they and their surviving son, "C J", are entitled on account of his injuries. Additionally, they sue the defendants on behalf of the estate of Nathaniel Brown, deceased, for all damages to which it is entitled. In this regard, no administration on the estate of Nathaniel Brown was necessary.

7.6 *James Davison, Jr. and Debbie Rockwell*

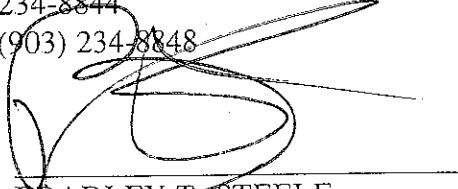
James Davison, Jr and Debbie Rockwell are the surviving parents of Teshareme Davison, deceased. They sue the defendants for all damages to which they are entitled for the wrongful death of their daughter pursuant to TCPRC 71 001 et seq. They also sue on behalf of the estate of Teshareme Davison, deceased for all damages to which it is entitled. In this regard, no administration on the estate of Teshareme Davison was necessary.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that defendants be cited to appear and answer, and that upon the trial of this cause, that the plaintiffs have judgment against the Defendants, jointly and severally, in an amount in excess of the minimum jurisdictional limits of the court, for prejudgment and postjudgment interest at the highest rates permitted by law, and for such other and further relief to which the plaintiffs may be entitled, at law or in equity.

Respectfully submitted,

LAW OFFICE OF  
BRADLEY T. STEELE  
1101 Judson Road  
Longview, Texas 75601  
(903) 234-8844  
Fax: (903) 234-8848

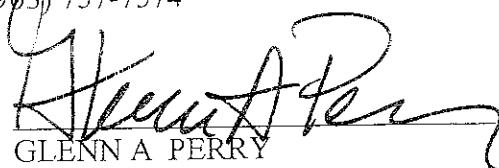
BY:

  
\_\_\_\_\_  
BRADLEY T. STEELE  
STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumarko King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HATCHER & PERRY  
101 E Whaley St  
P O Drawer 2909  
Longview, TX 75606-2909  
(903) 757-7000  
Fax: (903) 757-7574

BY:

  
\_\_\_\_\_  
GLENN A. PERRY  
STATE BAR NO. 1580150

Attorney for James Davison, Jr and Debbie  
Rockwell

**PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY**

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no. 08-0023, addressed to Kidde Frynetics, Inc. and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only; No In For delivery information visit o <i>Kidde Frynetics</i></b>		<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
5127 5663	Postage	A Signature <i>[Signature]</i>	
0003	Certified Fee	<input type="checkbox"/> Agent	
0220	Return Receipt Fee (Endorsement Required)	<input type="checkbox"/> Addressee	
0007	Restricted Delivery Fee (Endorsement Required)	B. Received By (Printed Name) <i>RECEIVED CT CORPORATION</i>	
0003	Total Postage & Fees	C. Date of Delivery JAN 10 2008	
5127 5663	\$	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: _____	
Sent To Street, Apt. No.: or PO Box No. City, State ZIP+4		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
08-0023		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7007 0220 0003 5127 5663	
PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540			

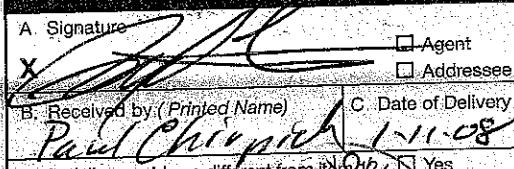
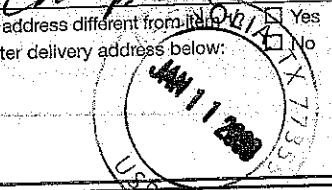
## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no 08-0023, addressed to Cavalier Enterprises, Inc. and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only)</b>		<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>		
<i>Cavaller Enterprises, Inc.</i>		<ul style="list-style-type: none"> <li><input type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<b>A Signature:</b> <u>JAN 10 2008</u>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
Postage	\$	1. Article Addressed to:	<b>B Received by (Printed Name)</b> <u>C T CORPORATION</u>		
Certified Fee		CAVALIER ENTERPRISES, INC ITS REGISTERED AGENT C T CORPORATION SYSTEM 350 NORTH ST. PAUL STREET DALLAS TEXAS 75201	<b>C Date of Delivery</b>		
Return Receipt Fee (Endorsement Required)					
Restricted Delivery Fee (Endorsement Required)					
Total Postage & Fees	\$				
<b>Sent To</b>		<b>D Is delivery address different from item 1?</b> <input type="checkbox"/> Yes If YES, enter delivery address below: _____			
Street, Apt. No., or PO Box No.					
City, State, ZIP+4					
<i>08-0023</i>		<b>3 Service Type</b> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. <b>4 Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes			
		<u>2007 0220 0003 5127 7094</u>			
PS Form 3800, August 2008		Domestic Return Receipt			
PS Form 3811, August 2001		102595-02-M-1640			

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no. 08-0023, addressed to Patricia Griffin and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service Domestic Mail Only</b>		<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  <input checked="" type="checkbox"/> X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) <u>Paul Christopher</u> C. Date of Delivery <u>1-11-08</u> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below: 	
<b>For delivery information:</b> <u>Patricia G</u>		<b>1. Article Addressed to:</b> PATRICIA GRIFFIN D/B/A DISCOUNT HOMES P. O. BOX 114 MAGNOLIA, TEXAS 77353-0114  <u>08-0023</u>		<b>3. Service Type</b> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
<b>Postage</b> \$ <u>0.00</u> <b>Certified Fee</b> \$ <u>0.00</u> <b>Return Receipt Fee (Endorsement Required)</b> \$ <u>0.00</u> <b>Restricted Delivery Fee (Endorsement Required)</b> \$ <u>0.00</u> <b>Total Postage &amp; Fees</b> \$ <u>0.00</u>		<b>2. Article Number</b> (Transfer from service label) <u>08-0023</u>		<b>7.007 0220 0003 5127 7117</b>	
Sent To Street, Apt. No.; or PO Box No. City, State ZIP+4					
PS Form 3811, August 2001 Domestic Return Receipt <small>PS-Form 3811-August 2001</small>					
102595-02-M-1540					

CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan. 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail, Cause no 08-0023, addressed to Spirit Home, Inc. and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan. 2008.

U.S. Postal Service <b>CERTIFIED MAIL</b> <i>(Domestic Mail Only)</i>		<b>SENDER: COMPLETE THIS SECTION</b>	
<p>For delivery information</p> 		<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	
Postage	\$	1 Article Addressed to:	
Certified Fee	\$	SPIRIT HOMES, INC. ITS REGISTERED AGENT C T CORPORATION SYSTEM 350 NORTH ST. PAUL STREET DALLAS, TEXAS 75201	
Return Receipt Fee (Endorsement Required)	\$		
Restricted Delivery Fee (Endorsement Required)	\$		
Total Postage & Fees	\$		
<i>08-0023</i>		2. Article Number <i>(Transfer from service label)</i>	
<b>COMPLETE THIS SECTION ON DELIVERY</b>			
<p>A. Signature</p> 		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
<p>B. Received by (Printed Name)</p> 		<p>RECEIVED CORPORATION</p>	
<p>C. Date of Delivery</p>			
<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>			
<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p>			
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>			
<p>7007 0220 0003 5127 5687</p>			

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail. Cause no 18-0023, addressed to Cavalier Home Builders and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL - REG</b>	
<i>(Domestic Mail Only; No Insurance Co</i>	
<i>For delivery information visit our website at</i>	
<i>Cavalier Home Builders</i>	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To	
Street, Apt. No.; or PO Box No.	
City, State, Zip+4	
PS Form 3811, August 2006	

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CAVALIER HOME BUILDERS L L C  
 ITS REGISTERED AGENT  
 C T CORPORATION SYSTEM  
 350 NORTH ST. PAUL STREET  
 DALLAS, TEXAS 75201

08-0023

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X JAN 10 2008  
 RECEIVED  
 C T CORPORATION

 Agent Addressee

B. Received by

(Printed Name)

C Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3 Service Type

- Certified Mail     Express Mail  
 Registered     Return Receipt for Merchandise  
 Insured Mail     C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

7007 0220 0003 5127 7100

NO. 08-0023

**RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM  
Plaintiff,**

**IN THE DISTRICT COURT**

SHOOT GRIMES  
BY J. DENT

V.

**71ST JUDICIAL DISTRICT**

INVACARE CORPORATION,  
PRAXAIR HEATHCARE SERVICES,  
INC., KIDDE FYRNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C.F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

# OF HARRISON COUNTY, TEXAS

## **PLEA IN INTERVENTION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

## I PARTIES AND SERVICE

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas  
has appeared in this action individually and on behalf of the estate of Destiny Graham.

2. Defendant, Invacare Corporation, is a foreign corporation organized and existing  
pursuant to the laws of a state other than Texas and whose principal place of business is a state other

than the state of Texas. Defendant may be served with notice of this Plea by sending a copy by certified mail, return receipt requested to its attorney: David Macdonald, Macdonald, Devin, 3800 Renaissance Tower, 1201 Elm St., Dallas, Texas, 75270.

3. Defendant, Praxair Healthcare Services, Incorporated, is a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: Corporation Service Company d/b/a CSC-Lawyers Inc., 701 Brazos Street, Suite 1050, Austin, Texas, 78701

4. Defendant, Kidde Fyrmatics, Inc., A UTC Fire & Security Company, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 North St Paul Street, Dallas, Texas

5. Defendant, Spirit Homes, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant, who has engaged in business in Texas, does not have its registered agent on file. The Texas Secretary of State may serve the Defendant by serving: The Corporation Company, 425 West Capital Avenue, Suite 1700, Little Rock, Arkansas 72201.

6. Defendant, Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N St Paul Street, Dallas, Texas

7. Defendant, Cavalier Enterprises, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N. St. Paul Street, Dallas, Texas.

8. Defendant, Cavalier Home Builders, L.L.C. f/k/a Cavalier Homes of Alabama, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 St. Paul Street, Dallas, Texas 75201

9. Defendant, Patricia Griffin d/b/a Discount Homes, is an individual who engaged in business in Texas; the lawsuit arises out of Defendant's business in Texas. Defendant may be served with notice of this Plea by sending a copy of this Plea to said Defendant by serving Defendant by certified mail, return receipt requested at her mailing address: P O. Box 114, Magnolia, Texas 77353-0114.

II.

on County is proper in this cause. All or a substantial part of the set forth herein occurred in Harrison County, Texas.

III.

rick Keith Graham has a justiciable interest in the matters in  
he intervenor is the father of decedent Destiny Graham, who was  
she was living caught fire On January 9, 2005, a fire broke  
e located on Farm to Market Road 450 North, south of Ore City and  
home, a 1999 Spirit Saratoga, was owned by Clara Patton and  
of the fire, the mobile home was occupied by Clara Patton, her  
son's daughter, Kimberly Graham and her two (2) children, Destiny  
, and their friends, Nathaniel Brown, John "C.J." Brown and  
ased the deaths of Laura Patton, age 75, Destiny Graham, age 11,  
ial Brown, age 5, Teshareme Davison, age 12. Injured in the fire  
aham and John "C.J." Brown

V.

hat a defect existed in the concentrator which caused it to overheat  
ibly dangerous as designed, manufactured and marketed and which

overheating occurred, in part, due to the failure of Praxair Healthcare Services, Incorporated, to maintain the concentrator.

13. Additionally, Plaintiff alleges that Praxair Healthcare Services failed to instruct Laura Patton in the safe use of the concentrator and to warn of the dangers inherent in the use of the concentrator. These acts of negligence were a proximate cause of the death of Destiny Graham.

14. Plaintiff alleges that the design, manufacture and marketing of the smoke alarms by Kidde Fyrenetics, Inc , A UTC Fire & Security Company, was defective such that they failed to provide a timely warning to the occupants of the mobile home. The delay in discovering the fire allowed smoke to fill the home such that when the occupants did finally discover the fire, the degree of smoke then existing caused great confusion, difficulty breathing and prevented those who perished from escaping, ultimately leading to their deaths. Thus, the defective smoke detector was a producing cause of the injuries and deaths herein.

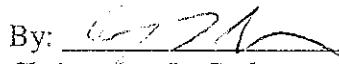
15 Pleading further, Plaintiff alleges that a defect in the electrical wiring of the mobile home existed which was a producing cause of the fire and the death of Destiny Graham. Defendants negligently wired the smoke detectors located within the mobile home and failed to include adequate smoke detectors. Such negligence was a proximate cause of the basis of this suit. This defect in the wiring rendered it unreasonably dangerous as designed, manufactured and marketed. The wiring was designed, manufactured and marketed by Spirit Homes, Inc., Spirit Homes, Inc , a division of Cavalier Enterprises, Inc , Cavalier Enterprises, Inc., Cavalier Enterprises of Alabama, Inc and/or Discount Homes.

14. Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled Pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. In addition, Roderick Keith Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is entitled

**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham, respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a final hearing of the cause, judgment be entered for the Intervenor and against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Intervenor may be entitled at law or in equity.

Respectfully submitted,

Lauren Graham International P.L.L.C.

By:   
Christopher L. Graham  
Texas Bar No. 24047549  
400 N. St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P O. Box 3009  
Cedar Hill, Texas 75104  
Tel. (214)673-3435  
Fax (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham

**CERTIFICATE OF SERVICE**

ry 9, 2008 a true and correct copy of Plaintiff's Petition in  
person listed below by the method indicated

CLG  
Christopher L. Graham

e

270

pt Requested: 7006 0810 0004 3808 6951

I/b/a CSC-Lawyers Inc.,

pt Requested: 7006 0810 0004 3808 6968

Spirit Homes, Inc.  
Texas Secretary of State,  
1019 Brazos Street,  
Austin, Texas 78701  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 3808 6982

Spirit Homes, Inc., a division of Cavalier Enterprises, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8064

Cavalier Enterprises, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8071

Cavalier Home Builders, L.L.C f/k/a Cavalier Homes of Alabama, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8088

Patricia Griffin d/b/a Discount Homes  
P O Box 114,  
Magnolia, Texas 77353-0114  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8095

BRAD STEELE\*

Kevin Oden, Investigator

\*BOARD CERTIFIED  
- Personal Injury Trial Law  
- Civil Trial Law  
Texas Board of  
Legal Specialization  
- Licensed in Texas and Oklahoma

LAW OFFICE OF

BRADLEY T. STEELE, PC

1101 JUDSON ROAD  
LONGVIEW, TEXAS 75601

CLERK'S OFFICE  
HARRISON COUNTY, TEXAS  
DISTRICT COURT



2008 JAN 16 AM 10:39 903-234-8844  
FAX 903-234-8848  
SHERRY GRAY  
Email: bradley.steele@sbcglobal.net  
Email: kevinoden@sbcglobal.net

January 9, 2008

BY:  
DEPUTY

District Clerk - Harrison County  
Attn: Bobbie Johnson  
P O. Box 1119  
Marshall, Texas 75670

Re: Cause No 08-0023; Clara Patton, et al vs Invacare Corporation, et al

Dear Bobbie:

Enclosed please find our firm check no 15649 in the amount of \$30 00 which is the amount for the jury fee which I did not pay for at the time of filing In addition, I have enclosed our firm check no 15650 in the amount of \$55 00 payable to the Secretary of State

Thank you for your assistance in this matter

Sincerely,

Cheryl Stevenson  
Assistant to Bradley T Steele

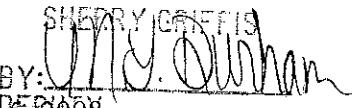
/cs  
Enclosure



FOR RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

David M Macdonald  
Direct: 214 651 3300  
dmacdonald@macdonalddevin.com

2008 JAN 17 AM 10:49

SHERRY GRIFFIS  
BY:   
January 15, 2008

Ms. Mary Durham  
Harrison County District Clerk  
200 West Houston  
Suite 234  
Marshall, TX 75670

Re: Cause No. 08-0023; *Clara Patton et al V Invacare Corporation, et al*  
Our File No. 676/30

Dear Ms. Durham::

Pursuant to our telephone conversation, please forward to me a copy of the Plea in Intervention which was filed on January 11, 2008 on behalf of Roderick Keith Graham in the above-referenced matter

I have enclosed our Firm's Check in the amount of \$8 00 as payment for the certified copies I have also enclosed a self-addressed, stamped envelope for your convenience.

Sincerely,

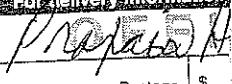
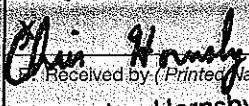


Tannis M. Stone  
Legal Assistant to  
David M. Macdonald

Enclosures  
207941 1 00676/0030

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no. 08-0023, addressed to Praxair Healthcare Service and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only)</b>		<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<b>For delivery information:</b>  <b>Postage</b> \$ <input type="text"/> <b>Certified Fee</b> <input type="text"/> <b>Return Receipt Fee (Endorsement Required)</b> <input type="text"/> <b>Restricted Delivery Fee (Endorsement Required)</b> <input type="text"/> <b>Total Postage &amp; Fees</b> \$ <input type="text"/>		<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> <p>1 Article Addressed to:  <b>PRAXAIR HEALTHCARE SERVICES, INCORPORATED ITS REGISTERED AGENT CORPORATION SERVICE CO. 701 BRAZOS STREET, SUITE 1050 AUSTIN, TEXAS 78701</b></p> <p><i>08-0023</i></p>	<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by / Printed Name <b>Christopher Hornsby</b></p> <p>C. Date of Delivery <b>1/14/08</b></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p>2 Article Number (Transfer from service label) <b>7007 0220 0003 5127 7087</b></p> <p>3. Service Type       <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<small>PS Form 3811, August 2001 GSA Form 800, August 2000</small>			



CT

a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 973 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

2008 JAN 18 AM 11:36

January 14 2008

Christopher L. Graham  
Lauren Graham International P L L C  
400 N St. Paul, Suite 1000  
Dallas TX 75201

SHERRY GRIFFIS  
BY: M. Grifft  
DEPUTY

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham, Pltf/Intervenor vs. Invacare Corporation, et al  
including Kidde Fyrnetics Inc., Dfts

Case No. 080023

Dear Sir/Madam:

We are herewith returning the Letter, Plea in Intervention, Certificate of Service which we received regarding the above captioned matter.

Kidde Fyrnetics Inc. is not listed on our records or on the records of the State of TX.

Very truly yours,

Sandra Galicia  
Process Specialist

Log# 512977369

cc: 71st Judicial District Court Harrison County, Texas  
Sherry Griffis Clerk  
PO Box 1119  
Marshall Tx 75671

C. Lauren Graham admitted CA, NY, TX  
 Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St, Ste #1000  
 Dallas, Texas 75201

Phone: 214-673-3435

Fax: 972-291-1223

HARRISON COUNTY

DISTRICT COURT

2008 JAN 18 AM 11:36

January 8, 2008

SHERRY GRIFFIS  
 BY: J. J. JONES  
 DEPUTY

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**

Harrison County District Clerk  
 P.O. Box 1119  
 Marshall, Texas 75671

RE: Roderick Keith Graham v. Invacare et al, Plea in Intervention; Filing Fees

Please find enclosed Plaintiff's Plea in Intervention and necessary filing fees. Send a file-stamped copy of the Plea back to my office in the pre-paid enclosed envelope. Please do not hesitate to contact our office if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,



C. Lauren Graham, Esq  
 Lauren Graham International PLLC

Cc: Bradley Steele  
 Law Offices of Bradley T Steele  
 1101 Judson Road  
 Longview, Texas 75601  
 By Facsimile: (903) 234-8848

Glenn Perry  
 Sloan Bagley, Hatcher & Perry  
 101 E. Whaley St.  
 P.O. Drawer 2909  
 Longview, TX 75606-2909  
 By Facsimile: (903) 757-7574

Invacare Corporation  
 David Macdonald,  
 Macdonald Devin.

NO. 08-0023

FOR RECORD  
W COUNTY, TEXAS  
DISTRICT COURT

**RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM**  
Plaintiff,

V<sub>14</sub>

INVACARE CORPORATION,  
PRAXAIR HEATHCARE SERVICES,  
INC., KIDDE FYRNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C.F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

§ IN THE DISTRICT COURT AM 11:37

SHERRY GRIFFIN  
BY: M. M.  
DEPUTY

## **71ST JUDICIAL DISTRICT**

## OF HARRISON COUNTY, TEXAS

## PLEA IN INTERVENTION

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

## I. PARTIES AND SERVICE

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas has appeared in this action individually and on behalf of the estate of Destiny Graham.
  2. Defendant, Invacare Corporation, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas and whose principal place of business is a state other

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0000  
75201

Lauren Graham International P.I.C.  
P.O. Box 3009  
Cedar Hill, Texas 75104



7006 0810 0004 3808 6975

Kidde Fyrnetics, Inc.  
CT Corporation System,  
350 North St. Paul Street,  
Dallas, Texas 75201



a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 975-450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

FORRELL D.  
HARRISON COUNTY, TEXAS  
JAN 16 2008

2008 JAN 16 AM 11:36

January 10, 2008

SHERRY GRIFFIS  
BY *[Signature]*  
DEPUTY

C Lauren Graham  
Lauren Graham International P L L C  
400 N St. Paul, Ste #1000  
Dallas, TX 75201

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham, Pltf /Intervenor vs Invacare Corporation et al  
including Cavalier Enterprises Inc . Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX it has been determined that C T Corporation System is not the registered agent  
for an entity by the name of Cavalier Enterprises Inc

Accordingly we are returning the documents received from you

Very truly yours

Sandra Galicia  
Process Specialist

Log# 512966030

cc: 71st Judicial District Court Harrison County Texas  
Sherry Griffis Clerk,  
PO Box 1119  
Marshall Tx 75671

**LAUREN GRAHAM INTERNATIONAL P.L.L.C.**

Attorneys &amp; Counselors

California \* New York \* Texas \* Mexico

Lauren Graham admitted CA, NY, TX  
 Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St. Ste #1000  
 Dallas, Texas 75201

FOR RECEIPT  
 IN COURT  
 BY MAIL

Phone: 214-673-3435  
 Fax: 972-291-1223

2008 JAN 18 AM 11:36

CHERRY GRIFFIS

BY: Patricia  
 DEPUTY

January 8, 2008

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**

Harrison County District Clerk  
 P O. Box 1119  
 Marshall, Texas 75671

RE: Roderick Keith Graham v. Invacare et al, Plea in Intervention; Filing Fees

Please find enclosed Plaintiff's Plea in Intervention and necessary filing fees. Send a file-stamped copy of the Plea back to my office in the pre-paid enclosed envelope. Please do not hesitate to contact our office if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,

C Lauren Graham, Esq.  
 Lauren Graham International PLLC

Cc: Bradley Steele  
 Law Offices of Bradley T Steele  
 1101 Judson Road  
 Longview, Texas 75601  
 By Facsimile: (903) 234-8848

Glenn Perry  
 Sloan Bagley Hatcher & Perry  
 101 E. Whaley St.  
 P O. Drawer 2909  
 Longview TX 75606-2909  
 By Facsimile: (903) 757-7574

Invacare Corporation  
 David Macdonald  
 Macdonald Devin

NO. 08-0023

FOR RECORD  
MCOUNTY TEXAS  
DIS. REC. FEB 1968

**RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY**

**GRAHAM**  
Plaintiff,

V.

INVACARE CORPORATION,  
PRAXAIR HEATHCARE SERVICES,  
INC., KIDDE FYRNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C.F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

**IN THE DISTRICT COURT**

SHERRY GRIFFIS

## 71ST JUDICIAL DISTRICT

OF HARRISON COUNTY, TEXAS

## **PLEA IN INTERVENTION**

TO THE HONORABLE JUDGE OF SAID COURT:

**NOW COMES** Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

## I PARTIES AND SERVICE

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas has appeared in this action individually and on behalf of the estate of Destiny Graham.
  2. Defendant, Invacare Corporation, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas and whose principal place of business is a state other

14. Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled Pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. In addition, Roderick Keith Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is entitled.

**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham, respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a final hearing of the cause, judgment be entered for the Intervenor and against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Intervenor may be entitled at law or in equity

Respectfully submitted,

Lauren Graham International P L.L.C.

By: \_\_\_\_\_  
Christopher L. Graham  
Texas Bar No. 24047549  
400 N. St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P.O. Box 3009  
Cedar Hill, Texas 75104  
Tel. (214)673-3435  
Fax (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham

Lauron Graham International PLLC  
P.O. Box 3009  
Cedar Hill, Texas 75104



7006 0810 0004 6219 8071



POSTAGE PAID  
DALLAS, TX  
75222  
JAN 08 08  
AMOUNT  
**\$5.38**  
00081010-20  
75201

Cavalier Enterprises, Inc. c/o  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201

RECORDED MAIL



CT  
a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 975-9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com  
... 71ST JUDICIAL DISTRICT COURT  
... 71ST JUDICIAL DISTRICT COURT

2008 JAN 18 AM 11:36

SHERRY GRIFFIS  
BY: [Signature]  
DEPUTY

January 10, 2008

C Lauren Graham  
Lauren Graham International P L L C  
400 N St. Paul, Ste #1000  
Dallas TX 75201

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham Pltf /Intervenor vs Invacare Corporation et al including Spirit Homes Inc a division of Cavalier Enterprises Inc Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation System is not the registered agent for an entity by the name of Spirit Homes, Inc., a division of Cavalier Enterprises, Inc.

Accordingly we are returning the documents received from you

Very truly yours,

Sandra Galicia  
Process Specialist

Log# 512966008

cc: 71st Judicial District Court Harrison County Texas  
Sherry Griffis, Clerk  
PO Box 1119  
Marshall Tx 75671

**LAUREN GRAHAM INTERNATIONAL P.L.L.C.**

California \* New York \* Texas \* Mexico

C. Lauren Graham admitted CA NY, TX  
Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St. Ste #1000  
Dallas, Texas 75201

Phone: 214-673-3435  
Fax: 972-291-1223

DISTRICT COURT

2008 JAN 18 AM 11:36

SHERRY GRIFFIS  
Deputy

January 8, 2008

BY:  
DEPUTY

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**

Harrison County District Clerk  
P.O. Box 1119  
Marshall, Texas 75671

RE: Roderick Keith Graham v Invacare et al, Plea in Intervention; Filing Fees

Please find enclosed Plaintiff's Plea in Intervention and necessary filing fees. Send a file-stamped copy of the Plea back to my office in the pre-paid enclosed envelope. Please do not hesitate to contact our office if you have any questions.

Thank you for your prompt attention to this matter

Sincerely,



C. Lauren Graham, Esq.  
Lauren Graham International PLLC

Cc: Bradley Steele  
Law Offices of Bradley I Steele  
1101 Judson Road  
Longview, Texas 75601  
By Facsimile: (903) 234-8848

Glenn Perry  
Sloan Bagley Hatcher & Perry  
101 E. Whaley St.  
P O Drawer 2909  
Longview TX 75606-2909  
By Facsimile: (903) 757-7574

Invacare Corporation  
David Macdonald  
Macdonald Devin

NO. 08-0023

FOR REC'D.  
W. COUNTY, TEX.  
DISTRICT COURT

RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM  
Plaintiff,

V

INVACARE CORPORATION,  
PRAXAIR HEALTHCARE SERVICES,  
INC., KIDDE FYRNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C.F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

**IN THE DISTRICT COURT**

SHERRY GRIFFIS  
BY Patricia Young  
DEPUTY

## 71ST JUDICIAL DISTRICT

OF HARRISON COUNTY, TEXAS

## PIEA IN INTERVENTION

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

## I. PARTIES AND SERVICE

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas  
has appeared in this action individually and on behalf of the estate of Destiny Graham

2 Defendant, Invacare Corporation, is a foreign corporation organized and existing  
pursuant to the laws of a state other than Texas and whose principal place of business is a state other

14 Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and  
sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled  
Pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. In addition, Roderick Keith  
Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is  
entitled

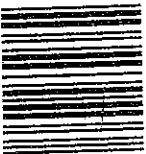
**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham,  
respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a  
final hearing of the cause, judgment be entered for the Intervenor and against Defendants for  
damages in an amount within the jurisdictional limits of the Court; together with pre-judgment  
interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court;  
and such other and further relief to which the Intervenor may be entitled at law or in equity.

Respectfully submitted,

Lauren Graham International P L L C.

By: \_\_\_\_\_  
Christopher L. Graham  
Texas Bar No. 24047549  
400 N. St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P O. Box 3009  
Cedar Hill, Texas 75104  
Tel (214)673-3435  
Fax. (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham

U.S. POSTAGE  
PAID  
DALLAS, TX  
75222  
JAN 08 08  
AMOUNT  
**\$5.00**  
00081010



0000  
75201

Lauren Graham International P.L.C.  
P.O. Box 3909  
Cedar Hill, Texas 75104



7006 0810 0004 6219 8064

Spirit Homes, Inc., a division of Cavaier  
Enterprises, Inc. c/o  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201



a Wolters Kluwer business

CT  
350 North St. Paul Street  
Suite 2900  
Dallas, TX 75201

214 979 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

SEARCHED  
INDEXED  
FILED  
HARRIS COUNTY JUDICIAL DISTRICT COURT  
2008 JAN 22 AM 11:33

January 10, 2008

SHERRY CRYFFIS  
BY: \_\_\_\_\_  
DEPUTY

Bradley T. Steele  
Law Office of Bradley T. Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham, Pltf./Intervenor vs  
Invacare Corporation, et al including Cavalier Enterprises, Inc , Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation System is not the registered agent for an entity by the name of Cavalier Enterprises, Inc ,

Accordingly, we are returning the documents received from you.

Very truly yours,

Marie-Dominique Sheetter  
Process Specialist

Log# 512966574

cc: 71st Judicial District Court of Harrison County

, TX

CAUSE NO. 08-0023

FILED FOR RECORD  
IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXASPLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL  
VS.DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

2008 JAN 22 AM 11:33

SHERRY GRIFFIS  
BY: DEPUTY  
**COPY**

## CITATION

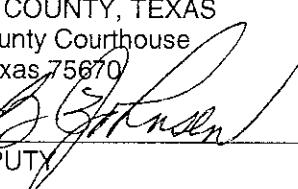
TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTO: **CAVALIER ENTERPRISES, INC.**  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201THE STATE OF TEXAS  
COUNTY OF HARRISON

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SEAL

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670  
BY   
DEPUTY

Issued at the request of  
BRADLEY T STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_ m, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
 Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_\_ m.  
 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by delivering to \_\_\_\_\_  
 defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
 attached thereto and I endorsed on said copy of the citation the date of delivery.  
 To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Fee \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_\_.  
 \_\_\_\_\_

Notary Public

CAUSE NO.

08-0023

CLERK'S RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN - 7 PM 1:53

IN THE DISTRICT COURT OF

SHERRY GRIFFIN

BY:

DEPUTY

B Johnson

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES§  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR§  
AND DEBBIE ROCKWELL, IND. AND ON§  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

VS.

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/ACAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

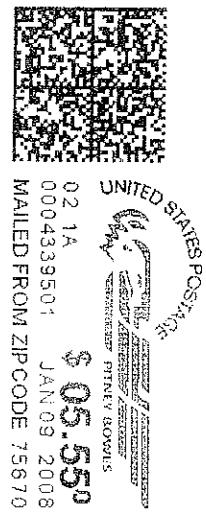
TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

SHERRY GRIFFIS  
HARRISON COUNTY DISTRICT CLERK  
206 WEST HOUSTON, STE 234  
MARSHALL, TX 75670



7007 02220 0003 5127 7094



CAVALIER ENTERPRISES, INC.  
ITS REGISTERED AGENT  
C/T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

RETURN RECEIPT REQUESTED



CT  
350 North St Paul Street  
Suite 2900  
Dallas, TX 75201

214 979 5450 tel  
214 754 0921 fax  
[www.ctlegalsolutions.com](http://www.ctlegalsolutions.com)

2010 JAN 25 PM 10:13

SHERRY GRIFFIS  
BY: *Patricia Tyler*  
DEPUTY

January 10, 2008

Bradley T Steele  
Law Office of Bradley T Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Clara Patton, Individually, and on Behalf of the Estate of Laura Patton, Deceased, Kimberly Graham, individually and on Behalf of the Estates of Destiny Graham, Deceased, et al , Pltfs. vs Invacare Corporation, et al including Kidde Flynetics, Inc., Dfts

Case No 080023

Dear Sir/Madam:

We are herewith returning the Citation, Original Petition which we received regarding the above captioned matter

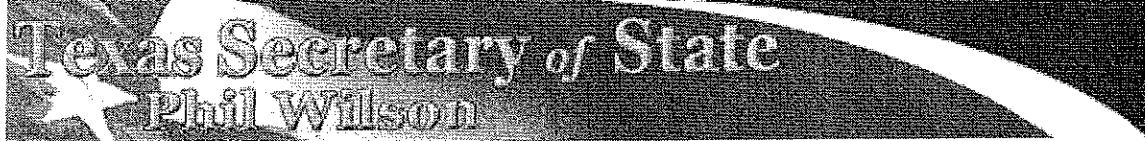
Kidde Flynetics, Inc is not listed on our records or on the records of the State of TX

Very truly yours,

Wilma Tyler  
Process Specialist

Log# 512964999

cc: 71st Judicial District Court Harrison County, Texas  
Sherry Griffis, Clerk,  
PO Box 1119,  
Marshall, Tx 75671



# Texas Secretary of State

Phil Wilson

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

## FIND GLOBAL NAME SEARCH

This search was performed on with the following search parameter:

**ENTITY NAME :** kidde fyrnetics inc

	<u>Filing</u>			<u>Entity Type</u>		<u>Entity</u>	<u>Name</u>	<u>Name</u>
Mark	Number	Name			Status	Type	Type	Status
<input checked="" type="radio"/>	708801522	ANTIQUES DE FRANCE, LC		Domestic Limited Liability Company (LLC)	Forfeited existence	Legal	Inactive	



Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button.

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXASPLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL**COPY****CITATION**TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: **KIDDE FYRNETICS, INC.**  
**ITS REGISTERED AGENT**  
**C T CORPORATION SYSTEM**  
**350 NORTH ST. PAUL STREET**  
**DALLAS, TEXAS 75201**

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.

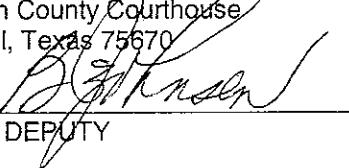
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SEAL

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

BY   
DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by delivering to \_\_\_\_\_ defendant, in person, a true copy of this citation together with the accompanying copy of the petition attached thereto and I endorsed on said copy of the citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Fee \$ \_\_\_\_\_

\_\_\_\_\_  
of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public

**CAUSE NO.** 88-0023

1959 TEXAS

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES§  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR§  
AND DEBBIE ROCKWELL, IND. AND ON§  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

IN THE DISTRICT COURT OF *2000 JAN - 7 PM 4:52*

SHERIFF GRIFFITH  
B. Johnson

## HARRISON COUNTY, TEXAS

VS<sub>II</sub>

**INVACARE CORPORATION, PRAXAIR  
HEALTHCARE SERVICES, INC., KIDDE  
FYRNETICS, INC., SPIRIT HOMES, INC.,  
SPIRIT HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS, L.L.C.  
F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND  
PATRICIA B. GRIFFIN D/B/A  
DISCOUNT HOMES, INC.**

**71<sup>ST</sup> JUDICIAL DISTRICT**

**PLAINTIFFS' ORIGINAL PETITION**

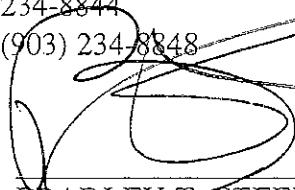
TO THE HONORABLE JUDGE OF SAID COURT:

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Respectfully submitted,

LAW OFFICE OF  
BRADLEY T. STEELE  
1101 Judson Road  
Longview, Texas 75601  
(903) 234-8844  
Fax: (903) 234-8848

BY:

  
\_\_\_\_\_  
BRADLEY T. STEELE  
STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumarko King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HAITCHER & PERRY  
101 E. Whaley St  
P O. Drawer 2909  
Longview, TX 75606-2909  
(903) 757-7000  
Fax: (903) 757-7574

BY:

  
\_\_\_\_\_  
GLENN A. PERRY  
STATE BAR NO 1580150

Attorney for James Davison, Jr. and Debbie  
Rockwell

PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY



a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 979 9450 tel  
214 754 0921 fax  
[www.ctlegalsolutions.com](http://www.ctlegalsolutions.com)

2008 JAN 25 AM 10:13

*Sherry Griffis*  
BY \_\_\_\_\_  
DEPUTY

January 10, 2008

Bradley T Steele  
Law Office of Bradley T Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Clara Patton, Individually, and on Behalf of the Estate of Laura Patton, Deceased, Kimberly Graham, individually and on Behalf of the Estates of Destiny Graham, Deceased, et al , Pltfs vs Invacare Corporation, et al including Spirit Homes, Inc , Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C I Corporation System is not the registered agent for an entity by the name of Spirit Homes, Inc

Accordingly, we are returning the documents received from you

Very truly yours,

Wilma Tyler  
Process Specialist

Log# 512964806

cc: 71st Judicial District Court Harrison County, Texas  
Sherry Griffis, Clerk,  
PO Box 1119,  
Marshall, Tx 75671

# Texas Secretary of State

Phil Wilson

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## FIND GLOBAL NAME SEARCH

This search was performed on with the following search parameter:

**ENTITY NAME :** spirit homes, inc

<u>Mark</u>	<u>Filing Number</u>	<u>Name</u>	<u>Entity Type</u>	<u>Status</u>	<u>Name Type</u>	<u>Name Status</u>
<input type="radio"/>	52093300	SPIRII HOMES, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive
<input type="radio"/>	134396800	SPIRIT HOMES, INC	Domestic For-Profit Corporation	Voluntarily dissolved	Legal	Inactive
<input type="radio"/>	<u>703521922</u>	SPIRII HOME CARE	Domestic Limited Liability Company (LLC)	In existence	Assumed	Active
<input type="radio"/>	<u>800261444</u>	SPIRIT HOME CRAFTERS	Domestic For-Profit Corporation	Forfeited existence	Assumed	Entity Inactive
<input type="radio"/>	<u>800261444</u>	SPIRIT HOME BUILDERS, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive
<input type="radio"/>	<u>800261444</u>	Spirit Home Builders	Domestic For-Profit Corporation	Forfeited existence	Assumed	Entity Inactive
<input type="radio"/>	<u>800833408</u>	Spirit Home Health, Inc.	Domestic For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	<u>800774710</u>	SUN SPIRIT HOMES, L.L.C	Domestic Limited Liability Company (LLC)	In existence	Legal	In use
<input type="radio"/>	<u>800186877</u>	HIGH SPIRIT HOMEBUILDERS LC	Domestic Limited Liability Company (LLC)	In existence	Legal	In use
<input type="radio"/>	104077800	GENTEL SPIRIT HOMES, INC	Domestic For-Profit Corporation	Forfeited existence	Legal	Prior

Records 1 to 10 of 23 scroll [Next >>](#) OR proceed to page  of 3 pages [GO](#)

[Return to Order](#)

[New Search](#)

Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)
**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

**Filing Number:** 52093300      **Entity Type:** Domestic For-Profit Corporation

**Original Date of Filing:** June 6, 1980      **Entity Status:** Forfeited existence

**Formation Date:** N/A

**Tax ID:** 17421096227

**FEIN:**

**Duration:** Perpetual

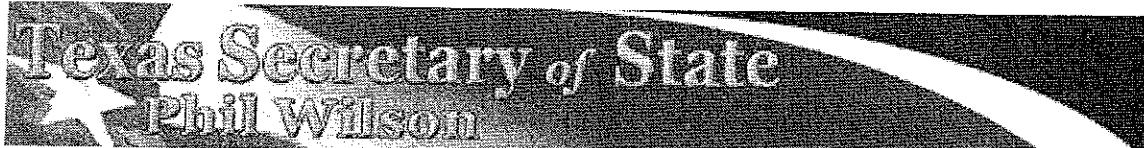
**Name:** SPIRIT HOMES, INC.

**Address:** [ADDRESS NOT PROVIDED]

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Name Stephen Marburger	Address 15502 BABCOCK RD. San Antonio, TX 78255 USA			Inactive Date	


**Instructions:**

- To place an order for additional information about a filing press the 'Order' button



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## BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

**Filing Number:** 134396800      **Entity Type:** Domestic For-Profit Corporation

**Original Date of Filing:** February 2, 1995      **Entity Status:** Voluntarily dissolved

**Formation Date:** N/A

**Tax ID:** 30117647286      **FEIN:**

**Duration:** Perpetual

**Name:** SPIRIT HOMES, INC.

**Address:** 1702 S HIGHWAY 121 SUITE 410  
Lewisville, TX 75067 USA

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
<b>Name</b>	<b>Address</b>				<b>Inactive Date</b>
[No Name Provided]	[ADDRESS NOT PROVIDED] [CITY NOT PROVIDED], [STATE NOT PROVIDED] USA				

[Order](#)

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Instructions:

- To place an order for additional information about a filing press the 'Order' button

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

**COPY**

**CITATION**

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: **SPIRIT HOMES, INC.**  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

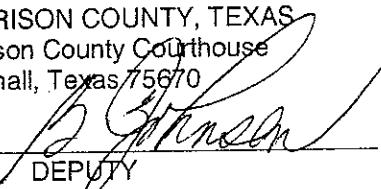
Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

BY   
DEPUTY

SEAL  
Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_ m, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_\_ m  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
Fee \$\_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_\_.  
\_\_\_\_\_  
Notary Public

CAUSE NO. 08-023

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES§  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR. §  
AND DEBBIE ROCKWELL, IND. AND ON §  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

VS.

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/A CAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

IN THE DISTRICT COURT OF

SHERRY GRIFFIS

BY: B Johnson  
DEPUTY

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

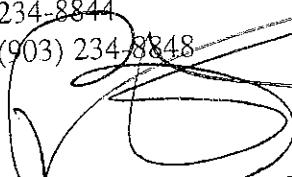
COMES NOW CLARA PATION, IND AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

Respectfully submitted,

LAW OFFICE OF  
BRADLEY T. STEELE  
1101 Judson Road  
Longview, Texas 75601  
(903) 234-8844

Fax: (903) 234-8848

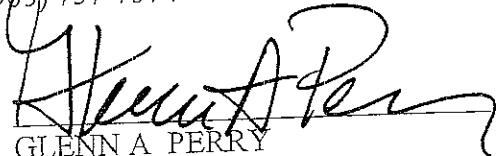
BY:

  
\_\_\_\_\_  
BRADLEY T. STEELE  
STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumako King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HATCHER & PERRY  
101 E Whaley St  
P O Drawer 2909  
Longview, TX 75606-2909  
(903) 757-7000  
Fax: (903) 757-7574

BY:

  
\_\_\_\_\_  
GLENN A. PERRY  
STATE BAR NO. 1580150

Attorney for James Davison, Jr. and Debbie  
Rockwell

PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY



David M Macdonald  
Direct: 214 651 3300  
dmacdonald@macdonalddevin.com

January 25, 2008

Ms Sherry Griffis  
Harrison County District Clerk  
Harrison County Courthouse  
200 West Houston, Suite 234  
Marshall, TX 75671

*Via Federal Express*

Re: Cause No. 08-0023, *Clara Patton, Individually and on Behalf of the Estate of Laura Patton, Deceased, et al v Invacare Corporation, et al*, 71<sup>st</sup> Judicial District Court, Harrison County, Texas

Dear Ms. Griffis:

Enclosed please find the original and one copy of Defendant Invacare Corporation's Original Answer to Plaintiffs' Original Petition. Please file the original among the papers in this action and return the file-stamped copy to the undersigned via the enclosed stamped and self-addressed envelope.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "DMM:jdl".

David M. Macdonald

DMM:jdl  
Enclosures  
209236 676/30

Ms Sheiry Griffis  
January 25, 2008  
Page 2

cc: (with enclosure)

Mr. Bradley T. Steele  
Law Office of Bradley T. Steele  
1101 Judson Road  
Longview, TX 75601

*Via CMRRR 7005 3110 0000 5082 0352*

Mr. Glenn A. Perry  
Sloan, Bagley, Hatcher & Perry  
101 E. Whaley St.  
P.O. Drawer 2909  
Longview, TX 75606-2909

*Via CMRRR 7005 3110 0000 5082 0369*

Mr. Christopher L. Graham  
Lauren Graham International P.L.L.C.  
400 N. St Paul Street, Suite #1000  
Dallas, TX 75201

*Via Regular U.S. Mail*

CAUSE NO. 08-0023

CLARA PATTON, IND. AND ON  
BEHALF OF THE ESTATE OF LAURA  
PATTON, DECEASED; KIMBERLY  
GRAHAM, IND. AND ON BEHALF OF  
THE ESTATES OF DESTINY GRAHAM,  
DECEASED, AND DA'MARCUS KING,  
DECEASED; LAUMARKO KING;  
DESHAWN BROWN AND CASSANDRA  
BROWN, IND. AND ON BEHALF OF  
THE ESTATE OF NATHANIAL BROWN,  
DECEASED, AND AS NEXT FRIEND  
FOR JOHN "C.J." BROWN, A MINOR;  
JAMES DAVISON, JR. AND DEBBIE  
ROCKWELL, IND. AND ON BEHALF OF  
THE ESTATE OF TESHAREME  
DAVISON, DECEASED

IN THE DISTRICT COURT OF

BY:  
DEFENDANT

Plaintiffs,

VS.

HARRISON COUNTY, TEXAS

INVACARE CORPORATION, PRAXAIR  
HEALTHCARE SERVICES, INC., KIDDE  
FYRNETICS, INC., SPIRIT HOMES,  
INC., SPIRIT HOMES, INC., A DIVISION  
OF CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS, L.L.C.  
F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA B.  
GRIFFIN D/B/A DISCOUNT HOMES,  
INC.

Defendants.

71<sup>ST</sup> JUDICIAL DISTRICT

DEFENDANT INVACARE CORPORATION'S ORIGINAL ANSWER  
TO PLAINTIFFS' ORIGINAL PETITION

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Defendant Invacare Corporation, and files its Original Answer and Special Exceptions to Plaintiffs' Original Petition, and in support thereof shows as follows:

1       Defendant Invacare Corporation (hereinafter referred to as "Defendant") denies each and every, all and singular, the allegations contained in Plaintiffs' Original Petition, and any amendments thereto, and says that same are not true, in whole or in part, but demands strict proof thereof

2       Pleading further, if necessary, this Defendant affirmatively asserts that the negligence of one or more of the adult Plaintiffs was the sole cause, a proximate cause, a contributing cause, a new and independent cause, or a subsequent intervening cause of Plaintiffs' injuries and damages, if any.

3       Pleading further, if necessary, this Defendant affirmatively asserts and pleads that Plaintiffs' injuries and damages, if any, were the result of a new and independent, intervening and/or superseding cause unrelated to any conduct of this Defendant or any product allegedly placed in the stream of commerce by this Defendant

4.       Pleading further, if necessary, this Defendant asserts and pleads that its alleged conduct was not the sole cause, a proximate cause, or a contributing cause, of any injuries or damages claimed by Plaintiffs. Defendant further pleads and asserts that acts or omissions of persons or other parties, for which conduct this Defendant is not responsible and over which Defendant exercised no control or authority, were the sole proximate cause or contributing cause of the Plaintiffs' injuries and damages, if any.

5 Pleading further, if necessary, this Defendant asserts and pleads that any recovery for any injury allegedly suffered by Plaintiffs is barred, in whole or in part, or should be reduced proportionately, by Plaintiffs' contributory and/or comparative negligence, fault, and want of due care TEX. CIV. PRAC. & REM. CODE, § 33.001 *et seq.*

6 Pleading further, if necessary, Plaintiffs' claims against Defendant are barred based on this Defendant's compliance with all federal and state laws, rules and regulations applicable to this Defendant's alleged products.

7 Pleading further, if necessary, if Plaintiffs should settle with any other person or party, then Defendant reserves its rights under Chapters 32 and 33 of the Texas Civil Practice and Remedies Code regarding an election of credit and reduction in the amount of damages to be recovered by the Plaintiffs.

8 Pleading further, if necessary, Defendant denies any and all alleged liability on its part with regard to the claims raised by Plaintiffs in this litigation. In the unlikely event, however, that the Court or any fact finder ultimately finds any liability against this Defendant and other Defendants, then this Defendant would avail itself to the rights of contribution and indemnity against said other Defendants pursuant to § 33.011 *et seq.* of TEX. CIV. PRAC. & REM. CODE and any other applicable statute or common law rule.

9 Pleading further, if necessary, the injuries and damages allegedly sustained by Plaintiffs, if any, can be attributed to several causes and accordingly should be apportioned among the various causes according to the contribution of such cause to the harm sustained.

10. Pleading further, if necessary, to the extent that Plaintiffs seek pre-judgment interest from this Defendant, this Defendant asserts the limitations for pre-judgment interest set forth in the Texas Finance Code.

11. Pleading further, if necessary, Defendant invokes the provisions of Tex. Civ. Prac. & Rem. Code § 33.003(a) to require that the trier of fact, as to each cause of action asserted, determine the percentage of responsibility with respect to each of the following persons with respect to each Claimant and each defendant causing or contributing to cause in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, or for other conduct or activity that violates an applicable legal standard, or by any combination of these

11. Pleading further, if necessary, Defendant hereby gives notice that it intends to rely upon any other defense that may become available or appear during any discovery proceedings in this cause and hereby reserves its right to amend its answer to assert any such defense.

12. Defendant incorporates by reference, to the extent applicable to this Defendant, any affirmative defenses raised by the other Defendants herein

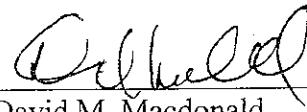
13. Defendant demands a trial by jury

WHEREFORE, PREMISES CONSIDERED, Defendant Invacare Corporation respectfully prays that upon final hearing Plaintiffs take nothing from this Defendant; that Defendant recover its costs and fees in connection with this case; and that Defendant be awarded such other and further relief, both at law and in equity, to which this Defendant may show itself to be justly entitled.

Respectfully submitted,

MACDONALD DEVIN, P.C.

By:



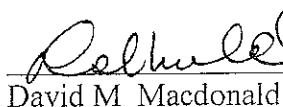
David M. Macdonald  
State Bar No. 12755300  
Patrick F. Madden  
State Bar No. 00787943  
Jennifer D. LeBlanc  
State Bar No. 24002473

3800 Renaissance Tower  
1201 Elm Street  
Dallas, TX 75270  
(214) 744-3300  
(214) 747-0942 (FAX)

ATTORNEYS FOR DEFENDANT  
INVACARE CORPORATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to Plaintiffs' counsel via certified mail, return receipt requested, and via regular U.S. mail to all other counsel of record on this 25 day of January, 2008

  
\_\_\_\_\_  
David M. Macdonald

# LOCKE LORD BISSELL & LIDDELL LLP

ATTORNEYS & COUNSELORS

2200 Ross Avenue  
Suite 2200  
Dallas, TX 75201

ATLANTA • AUSTIN • CHICAGO • DALLAS • HOUSTON • LONDON  
LOS ANGELES • NEW ORLEANS • NEW YORK • SACRAMENTO  
WASHINGTON, D.C.

Phone: (214) 740-8000  
Fax: (214) 740-8800  
[www.lockelord.com](http://www.lockelord.com)

SHERY GRIFFIS

Direct Number: (214) 740-8520

Direct-Fax: (214) 756-8520

BY: *[Signature]* E-mail: [mpowell@lockelord.com](mailto:mpowell@lockelord.com)  
DEPUTY

January 29, 2008

Ms Sherry Griffis  
District Clerk  
Harrison County Courthouse  
200 West Houston Street, Suite 234  
Marshall, Texas 75670

Re: *Patton, et al v Invacare Corporation, et al*, No. 08-0023

Dear Ms. Griffis:

I am enclosing the original and one copy of the Original Answer of Defendant Praxair Healthcare Services, Inc., in the referenced action. Please file the original and return the copy to me in the enclosed envelope, showing the date filed.

As shown by my certificate, I have served copies on the attorneys for plaintiffs and the known attorneys for defendants

Thank you for your attention to this matter

Sincerely,



Michael V. Powell

cc: Known counsel of record (w/encl.)

No. 08-0023

CLARA PATTON, INDIVIDUALLY,  
AND ON BEHALF OF THE ESTATE  
OF LAURA PATTON, DECEASED;  
et al.,

Plaintiffs,

vs

INVACARE CORPORATION, et. al.,

Defendants

RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM,

Intervenor,

vs.

INVACARE CORPORATION, et al.,

Defendants.

IN THE DISTRICT COURT

SHERRY GRIFFIN  
BY: *DYment*  
DEPUTY

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

**ORIGINAL ANSWER OF DEFENDANT  
PRAXAIR HEALTHCARE SERVICES, INC.**

TO THE HONORABLE JUDGE OF SAID COURT:

Praxair Healthcare Services, Inc. ("PHS"), named as a defendant by Plaintiffs and Intervenor in this action, files the following Original Answer to Plaintiffs' Original Petition and the Intervenor's Plea in Intervention in this action, and in support thereof would show as follows:

I.

PHS denies each and every, all and singular, the allegations of Plaintiffs' Original Petition and the Plea in Intervention, and demands strict proof thereof.

II.

In the event Plaintiffs or Intervenor seek punitive or exemplary damages from PHS, PHS pleads and avails itself of all protections of Chapter 41 of the Texas Civil Practices and Remedies Code.

III

The damages alleged in the petition and plea in intervention were not caused by the negligence or other fault of PHS or by any person or entity for whom PHS is responsible in law or fact.

IV.

The damages alleged in the petition and plea in intervention were caused by intervening acts or omissions committed by one or more persons or entities for whom PHS is not responsible in law or fact.

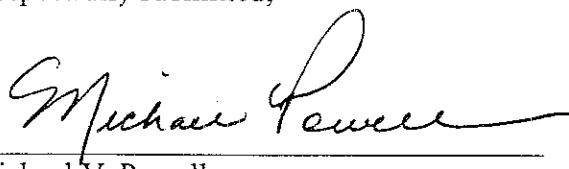
V

PHS demands determination of percentages of responsibility for all persons and entities whose responsibility may be determined under Tex Civ. Prac & Rem. Code § 33.003, including all claimants and all persons who may be designated as responsible third parties as to any claimant's claim.

WHEREFORE, PREMISES CONSIDERED, defendant Praxair Healthcare Services, Inc., prays that Plaintiffs and Intervenor will take nothing by this action, that Plaintiffs' Original Petition and the Plea in Intervention will be dismissed, and that said defendant will recover its costs and have all other relief to which it is entitled, special and general, in law and equity.

Dated: January 28, 2008

Respectfully submitted,



Michael V. Powell  
Texas Bar No. 16204400  
Matthew M. Hurt  
Texas Bar No. 24032450  
LOCKE LORD BISSELL & LIDDELL LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
Telephone: (214) 740-8520  
Telecopier: (214) 756-8520

ATTORNEYS FOR DEFENDANT  
PRAXAIR HEALTHCARE SERVICES, INC.

**CERTIFICATE OF SERVICE**

I certify that true and correct copies of the foregoing Original Answer were mailed this date by the United States Postal Service, postage prepaid, to the following counsel of record for other parties:

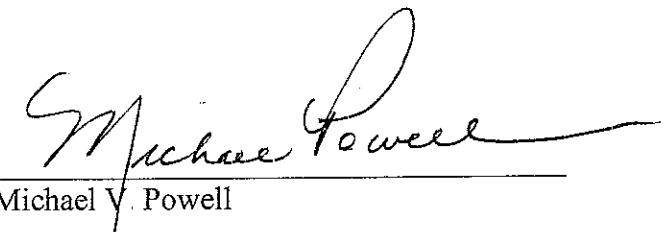
Mr. Bradley T Steele  
1101 Judson Road  
Longview, Texas 75601

Mr. Glenn A. Perry  
Sloan, Bagley, Hatcher & Perry  
P. O. Drawer 2909  
Longview, Texas 75606-2909

Mr. Christopher L Graham  
Lauren Graham International PLLC  
P. O. Box 3009  
Cedar Hill, Texas 75104

Mr. David Macdonald  
Macdonald, Devin  
3800 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

Mr. Louis M. Scofield  
MehaffyWeber  
P. O. Box 16  
Beaumont, Texas 77704-0016

  
Michael V. Powell  
Michael V. Powell

# CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Glen, 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail, Cause no. 08-0023, addressed to Spirit Homes, Inc. Secretary of State and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Glen 2008.

U.S. Postal Service	
CERTIFIED MAIL	
(Domestic Mail Only; No International Mail)	
For delivery information visit <a href="http://www.usps.com">www.usps.com</a>	
Spirit Homes	
Postage	\$ <u>51</u>
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ <u>51</u>
Sent To <u>08-0023</u>	
Street, Apt. No.: or PO Box No. City, State, ZIP+4	
SPIRIT HOMES, INC SECRETARY OF STATE CITATIONS UNIT P O BOX 12079 AUSTIN, TEXAS 78711-2079	
2 Article Number (Transfer from service label)	
PS Form 3811, August 2001	
2007 0220 0003 5127 5670	
COMPLETE THIS SECTION ON DELIVERY	
A. Signature <u>X</u>	
<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
B. Received by (Printed Name)	
C. Date of Delivery <u>JAN 30 2008</u>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <u>JAN 30 2008</u> <input type="checkbox"/> No	
3 Service Type	
<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail	
<input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise	
<input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4 Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXASPLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS.

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL**COPY****CITATION**TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: KIDDE FYRNETICS, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

## TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

SEAL

BY \_\_\_\_\_ DEPUTY

Issued at the request of  
BRADLEY T STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_ m.

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to \_\_\_\_\_ defendant, in person, a true copy of this citation together with the accompanying copy of the petition attached thereto and I endorsed on said copy of the citation the date of delivery

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Fee \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_

Notary Public

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

COPY

CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: **SPIRIT HOMES, INC.**  
**ITS REGISTERED AGENT**  
**C T CORPORATION SYSTEM**  
**350 NORTH ST. PAUL STREET**  
**DALLAS, TEXAS 75201**

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

**SHERRY GRIFFIS, DISTRICT CLERK**  
**HARRISON COUNTY, TEXAS**  
**Harrison County Courthouse**  
**Marshall, Texas 75670**

BY \_\_\_\_\_  
DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_\_.m.  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Fee \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_\_

Notary Public

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS**COPY**PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL**CITATION**TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: CAVALIER ENTERPRISES, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

## TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

SEAL

BY \_\_\_\_\_  
DEPUTY

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LONGVIEW, TEXAS 75606

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OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: **CAVALIER HOME BUILDERS, L.L.C**  
**ITS REGISTERED AGENT**  
**C T CORPORATION SYSTEM**  
**350 NORTH ST. PAUL STREET**  
**DALLAS, TEXAS 75201**

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SERVICES, INC., ET AL**CITATION**TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: PRAXAIR HEALTHCARE SERVICES, INCORPORATED  
ITS REGISTERED AGENT  
CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701

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VS

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SERVICES, INC., ET AL

COPY

CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: **SPIRIT HOMES, INC.**  
**THE CORPORATION COMPANY**  
425 WEST CAPITAL AVENUE, SUITE 1700  
LITTLE ROCK, ARKANSAS 72201  
BY SERVING THE SECRETARY OF STATE  
CITATIONS UNIT  
P. O. BOX 12079  
AUSTIN, TEXAS 78711-2079

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COPY

CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: **PATRICIA GRIFFIN**  
**D/B/A DISCOUNT HOMES**  
**P. O. BOX 114**  
**MAGNOLIA, TEXAS 77353-0114**

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